

IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

FRIDAY, THE TWENTY FIFTH DAY OF FEBRUARY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE C.V.RAMULU

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WRIT PETITION No.15768 of 1994

Between:

Prof. B.P.Nagi Reddy, S/o late P.Muniswamy Reddy,
Sri Venkateswara University, Tirupathi.

..... PETITIONER

AND

Sri Venkateswara University, rep.by its Registrar,
Tirupathi.

.....RESPONDENT

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue an appropriate writ order or direction declaring the show cause notice dt.22-8-1994 issued by the respondent as arbitrary, illegal, without jurisdiction and violative of the fundamental rights guaranteed to the petitioner under Articles 14&16 of the Constitution of India and issue a consequential direction not to take any further action pursuant to the show causes notice dt.22.8.1994.

**Counsel for the Petitioner: Mr. C.V. MOHAN REDDY and
Mr.K.GOVIND REDDY**

Counsel for the respondent: Mr. M. SRIRAMULU NAIDU,SC for SVU

The Court made the following:

ORAL ORDER:

This Writ Petition is filed seeking a Mandamus to declare the show cause notice (second) dated 22-8-1994 issued by the respondent as arbitrary, illegal and without jurisdiction.

It is the case of the petitioner that he is a Doctorate in Physics and joined the services of the respondent-University as Lecturer in the year 1968 and by sheer dint of hard work, quality of teaching and research conducted by him, he was appointed as Reader. Subsequently, he was promoted as Professor under Merit Promotion Scheme in the year 1983. While so, the Standing Board of Enquiry was constituted alleging certain misconduct against him and a charge sheet was issued to him on 8-12-1993. The Standing Board of Enquiry had conducted a detailed enquiry into the matter and recommended to the Board by its report dated 2-2-1994 to impose the punishment of stoppage of three increments without cumulative effect. Thereafter, the respondent issued a final show cause notice dated 25-6-1994 stating that the Board of Management at its meeting held on 8-6-1994 proposed to inflict the punishment of stoppage of three increments without cumulative effect and asked him to file his explanation. He submitted his explanation for the same on 11-7-1994. Surprisingly, he was served with another show cause notice dated 22-8-1994 proposing to revert him to the post of Reader. Challenging the said second show cause notice, the present Writ Petition is filed.

This Court by an order dated 6-9-1994 in W.P.M.P.No.19439 of 1994 passed an interim order staying all further proceedings in pursuance of the notice dated 22-8-1994 and the same is in operation even as on date. In the meanwhile, the petitioner

attained the age of superannuation and retired from service in the year 1998.

Now the only question that falls for consideration is whether the impugned second show cause notice issued by the respondent is proper or not ?

Sri K. Govind Reddy, learned counsel for the petitioner, strenuously contends that after a detailed enquiry was conducted, the Standing Board of Enquiry had submitted its report and recommended to impose the punishment of stoppage of three increments without cumulative effect and after the report was placed before the Board of Management, the Board of Management took a decision on 8-6-1994 to issue a final show cause notice proposing to impose the same punishment of stoppage of three increments without cumulative effect and accordingly, a show cause notice dated 25-6-1994 was issued by the respondent, to which the petitioner submitted his explanation on 11-7-1994. But, surprisingly, the impugned second show cause notice was issued proposing to impose a higher punishment of reversion from the post of Professor to that of Reader, which is arbitrary and illegal. Learned counsel further submitted that absolutely there was no new material placed before the Board of Management in the meeting held on 6-8-1994 to come to a different conclusion.

Per contra, learned counsel for the respondent contends that the Board of Management is competent to review the matter at any time before the finalization of the earlier show cause notice and there is nothing wrong in issuing second show cause notice imposing severe punishment than what was proposed in the earlier show cause notice dated 25-6-1994.

In the counter affidavit filed by the respondent, except asserting that a second show cause notice was issued on 22-8-1994 on considering the explanation dated 11-7-1994 of the petitioner, no other reasons are stated. Absolutely, no reasons are furnished nor urged before this Court that such and such are the warranting circumstances, which made the Board of Management to review its earlier decision dated 8-6-1994. In fact, the extract of the resolution of the Board of Management dated 6-8-1994, which is filed as a material paper, simply shows that the Board of Management felt that the punishment proposed earlier was not adequate and hence, resolved to revert the petitioner to the post of Reader and to issue a second show cause notice.

Unless and until plausible reasons are furnished warranting issuance of a second

show cause notice and reviewing the decision already taken for imposing the punishment of stoppage of three increments without cumulative effect, the second show cause notice ought not to have been issued. In my considered opinion, the issuance of impugned show cause notice is bereft of any reasons whatsoever and as such, is not tenable. Therefore, the show cause notice dated 22-8-1994 issued by the respondent is set aside leaving it open to the respondent to take action as available under law, as per the first final show cause notice dated 25-6-1994.

The Writ Petition is allowed to the extent indicated above. No order as to costs.

25-2-2005

prk

Rule nisi has been made absolute as above. Witness the Honourable Sri Devinder Gupta, the Chief Justice, on this Friday, the twenty fifth day of February, two thousand and five.

ASSISTANT REGISTRAR.

/True copy/

SECTION OFFICER.

To

1. The Registrar, Sri Venkateswara University, Tirupathi.
2. 2 CD copies.